



Akaitcho Interim Measures Agreement Implementation Office

*NWT Treaty #8 Tribal Corporation*

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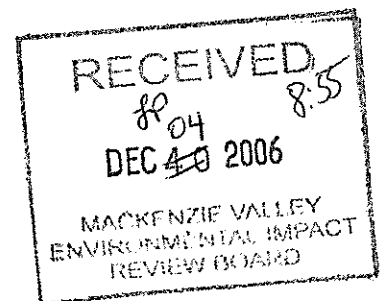
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November 25, 2006

Bob Overvoid – Regional Director General  
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**RE: Reasons for Decisions on the issuance of Information Requests pertaining to UR-Energy Inc. EA (EA0607-003)**

Mr. Overvoid:

In the recently released document entitled *UR-Energy Uranium Exploration, Screech Lake: Information Request Submissions Review and Reasons for Decision*, the MVEIRB makes the following and similar statements:

*"The EA process has no way of addressing the issue of treaty rights per se."*

*"How INAC disposes of its responsibilities in regards to treaty rights is outside the scope of an environmental assessment."*

*"The MVEIRB operates under the MVRMA and it endeavours to meet the consultation requirements as set by the MVRMA."*

From these statements, the MVEIRB has made it clear that it does not wish to deal with assertions and issues pertaining to potential infringements upon aboriginal and treaty rights in the environmental assessment process, and will not conduct Crown consultation with First Nations regarding potential infringements upon aboriginal and treaty rights. The MVEIRB also seems to indicate, though less clearly, that it proposes to carry out and conclude environmental assessments without insuring that the obligation to consult vis-à-vis potential rights infringements has been properly disposed by the Crown. This, quite obviously, leaves a substantial gap in the existing mandate of the MVLWB and MVEIRB processes, and leaves the Akaitcho Dene First Nations (AKFNs) with no individual or entity available and responsible for conducting consultation with the AKFNs regarding potential infringements upon aboriginal and treaty rights.

Pursuant to the *Haida Nation* decision, the Crown has a duty to consult when it has knowledge of the potential existence of an aboriginal or treaty right and contemplates conduct that might adversely affect these rights. In the case of the proposed exploration activities at Screech Lake, the duty to consult clearly arises. The AKFNs, as signatories to Treaty #8, have constitutionally-protected rights throughout their traditional territories. The mineral exploration activity contemplated by UR-Energy *might, and likely will,* adversely affect these rights, particularly when the cumulative effects of the proposed activities and the activities of other mineral exploration companies operating nearby and in the same general vicinity are considered.

There can be no debate that there is an obligation to consult with Akaitcho regarding the potential for the activities contemplated by UR-Energy to infringe upon aboriginal and treaty rights. It is, however, clear that no individual or institutional entities are willing to assume the responsibility to dispose of this obligation in reference to the AKFNs. The MVEIRB maintains that rights-based consultations are out of its mandate as they are not provided for in the MVRMA. INAC, for its part, maintains that existing MVRMA processes are largely sufficient to deal with rights-based concerns and assertions in the Akaitcho region, even though the case law is clear in stating that public consultation processes cannot be sufficient proxies for aboriginal consultation duties. The end result is that no one is adequately addressing rights-based assertions in the Akaitcho territory.

This very issue was central to the arguments presented by the Dene Tha' in their application for judicial review in matters pertaining to the assessment of the Mackenzie Gas Pipeline. Relief was granted to the Dene Tha' as the judge presiding determined that a) there was clearly a duty to consult with the Dene Tha', and b), institutional entities responsible for consulting with the Dene Tha' concerning their rights either did not exist or did not fulfill their responsibility. It appears in that case that the Court is about to take matters into its own hands and order Canada to appoint an individual or entity to conduct consultation with the Dene Tha', and be responsible for the implementation of the obligation to protect the rights of the First Nation.

The AKFNs are extremely concerned that no entity or collection of entities will assume responsibility for rights-based consultations as they pertain to the UR-Energy environmental assessment. If this proves to be the case, the AKFNs must conclude that in this matter, as in many others, the Crown is in breach of its duty to consult.

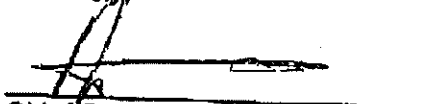
Even in circumstances where the Ministerial Directive of February 23, 2004 applies and requests are made of the MVLWD for additional studies or a hearing, meaningful consultation to this extent is not forthcoming. While the AKFNs requested a study of the Thelon Basin, and INAC agreed to the same, little positive action toward conducting the study has occurred.

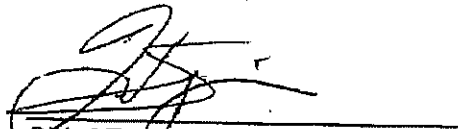
Studies only make sense and are of value if they are done prior to a MVEIRB hearing, and before approval of a project is granted. Studies done after the fact are of little, if any, value.

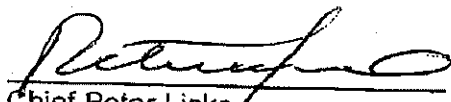
The lack of meaningful consultation with the AKFNs in the Akaitcho Territory with respect to developments that will clearly affect the exercise of aboriginal and treaty rights has gone on long enough. Both Canada and the AKFNs have been provided with plenty of guidance from the Courts in recent years on the manner of Crown consultation that should take place. Nevertheless, development continues in Akaitcho Territory without meaningful consultation. The AKFNs feel very comfortable that there is now sufficient caselaw in favour of meaningful consultation that action could be successfully taken to force Canada to conduct meaningful consultation with the AKFNs in relation to these developments.

Please take this as a formal request for Canada to identify / appoint an individual or entity forthwith to conduct meaningful consultation vis-à-vis rights with the AKFNs with respect to the activities contemplated by UR-Energy. This consultation must take place prior to any project approvals being granted. As well, the AKFNs also request that financial resources and expertise be made available to them for the conduct of this consultation. Failure to do so will leave the AKFNs with no option but to begin to examine their legal options in relation to the next development of any substance in Akaitcho Territory.

Sincerely,

  
 Chief Robert Sayine

  
 Chief Fred Sangris

  
 Chief Peter Liske

  
 Chief Adeline Jonasson

- c. The Honourable Jim Prentice – INAC Minister  
 Sharon Venne – Akaitcho Chief Negotiator  
 Stephen Ellis – Akaitcho IMA Coordinator  
 Coordinators  
 Jim Jodouin – Akaitcho Legal Counsel  
 Gabrielle Mackenzie-Scott – Chair, MVEIRB  
 Willard Hagen – Chair, MVLWB  
 James Lawrance – Director, Aboriginal and Territorial Relations Directorate,  
 INAC